

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MELISSA SMITH,

Plaintiff,

v.

No. 18-cv-0662 SMV/CG

JAKE VU and MICHAEL HARTLEY,

Defendants.

**MEMORANDUM OPINION AND ORDER
GRANTING MOTION TO DISMISS**

THIS MATTER is before the Court on Defendants' Motion to Dismiss [Doc. 2], filed on July 11, 2018. In response, Plaintiff, who is proceeding pro se, filed a letter and some exhibits. [Docs. 6, 9]. Defendants did not reply. The parties consented to the undersigned's presiding over and entering final judgment in this case. [Doc. 7]. This Court lacks jurisdiction over Plaintiff's claims. The motion will be granted, and the case, dismissed.

Plaintiff filed her Complaint in state court on June 18, 2018, alleging that Defendants had "fail[ed] to issue pat[ent] after 14 years." [Doc. 1-3] at 2. She explains that she is "petitioning to be awarded [her p]atent and be stated as the inventor" of Hot Lather Razor Fades. [Doc. 6] at 1. Defendants move to dismiss, in pertinent part, for lack of jurisdiction. [Doc. 2] at 5–8. Plaintiff fails to address the jurisdictional question in any of her filings. The Court agrees with Defendants. Jurisdiction over Plaintiff's patent claims lies with the Patent Trial and Appeal Board, 35 U.S.C. § 134(a), whose decisions may be appealed exclusively to the District Courts for the Federal Circuit and the Eastern District of Virginia, 35 U.S.C. §§ 141(a), 145. Simply

put, this Court has no authority to award her the patent she seeks. *See Kappos v. Hyatt*, 566 U.S. 431, 434 (2012).

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendants' Motion to Dismiss [Doc. 2] is **GRANTED**.

IT IS FURTHER ORDERED that all other pending motions and requests are **DENIED** as moot, and this case is **DISMISSED**.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge
Presiding by Consent